

## Agricultural Marketing Service, USDA

## § 75.8

(f) *Division* means the Warehouse and Seed Division (WSD), AMS.

(g) *Director* means the Director of the Division or any other officer or employee of the Division to whom authority has been delegated to act in the Director's stead.

(h) *Person* means any individual, partnership, association, business trust, corporation, entity, or any other organized group of persons, whether incorporated or not.

(i) *Seed* means any agricultural or vegetable seed.

(j) *Interested Party* means any person financially interested in a transaction involving seed.

(k) *Applicant* means an interested party who requests any inspection service with respect to seed.

(l) *Authorized agent* means an agent to whom authority to represent a person or government agency has been given by that person or government agency through delegation, contract or cooperative agreement, or other means.

(m) *Memorandum of Understanding* means a written plan between AMS and a State for carrying out their separate activities in a project of mutual interest to the parties involved.

(n) *Inspector* means a licensed employee of a State authorized pursuant to a Memorandum of Understanding or an employee of the Department authorized by the Director, to draw samples of seeds, seal containers, inspect records, test seeds for quality, issue certificates and reports, and bill for services.

(o) *Inspection* means sampling seeds, sealing containers, testing seeds for quality and reviewing records.

(p) *Appeal inspector* means an inspector or other person designated or authorized by the Division to perform appeal inspections under the Act and regulations in this subpart.

(q) *Certificate* means a certificate issued under the Act and the regulations in this subpart.

### ADMINISTRATION

#### § 75.3 Authority.

The Director is charged with the administration of the provisions of the regulations and the Act insofar as they

relate to the subject matter of the regulations, under the supervision of the Secretary and the Administrator.

#### § 75.4 Federal and State cooperation.

Pursuant to the Act, the Administrator is authorized to cooperate with the appropriate State agencies in carrying out provisions of the Act and these regulations through Memoranda of Understanding. The Memorandum of Understanding shall specify the duties to be performed by the parties concerned with each party directing its own activities and utilizing its own resources.

#### § 75.5 Regulations not applicable for certain purposes.

The regulations do not apply to the inspection of grain in the United States under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*), except to the extent that official grain samples received from the Federal Grain Inspection Service (FGIS) shall be examined for the presence of specified weed and crop seeds upon the request of FGIS.

#### § 75.6 Nondiscrimination.

The conduct of all services under these regulations shall be accomplished without discrimination as to race, color, religion, sex, or national origin.

### INSPECTION

#### § 75.7 Inspection in accordance with methods prescribed or approved.

Inspection of seed shall be rendered pursuant to these regulations and under such conditions and in accordance with the methods of either the Association of Official Seed Analysts (AOSA) or the International Seed Testing Association (ISTA).

#### § 75.8 Basis of service.

The regulations provide for inspection services pursuant to the Act. Seeds shall be inspected in accordance with the methods of either the Association of Official Seed Analysts (AOSA) or the International Seed Testing Association (ISTA); provided, that limitations in these rules respecting maximum lot size will not be observed and,

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provided further, that certification as to origin may be based on examination of records and certification of other seed certifying agencies.

### **§ 75.9 Who may obtain service.**

An application for inspection service may be made by any interested party or his authorized agent.

### **§ 75.10 How to make application.**

An application for service shall be confirmed in writing and addressed to the Federal Seed Laboratory, WSD, AMS, USDA, Beltsville, Maryland 20705.

### **§ 75.11 Content of application.**

An application for service shall include the following information; (a) The date of application; (b) the kind and quantity of seed, and test(s) to be performed; (c) the methods and instructions for the inspection of the seed (either Association of Official Seed Analysts (AOSA) or International Seed Testing Association (ISTA) rules); (d) the name and address of the applicant and, if made by an authorized agent; and (e) such further information relating to the inspection as may be required.

### **§ 75.12 When application deemed filed.**

An application shall be deemed filed when received by the Division or the Federal Seed Laboratory.

### **§ 75.13 When application may be rejected.**

Any application for service may be rejected by the Director (a) for non-compliance with the Act or the regulations relating to applications for service in this subpart, or (b) when it is not practicable to provide the service. Each such applicant shall be promptly notified in writing.

### **§ 75.14 When application may be withdrawn.**

An application may be withdrawn at any time before the requested service is rendered. The applicant will remain responsible for payment of expenses incurred in connection therewith as provided in § 75.44.

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### **§ 75.15 Authority of agent.**

Proof of authority of any person making an application as an agent may be required in the discretion of the official receiving the application.

### **§ 75.16 Accessibility of seeds.**

Each lot of seed for which a lot inspection is requested shall be placed by the applicant so as to permit the entire lot to be sampled and a representative sample to be obtained as required.

### **§ 75.17 Testing.**

Upon request by the applicant, tests may be made for kind, variety, germination, purity, weed seeds, disease pathogens, treatment, moisture, and other special tests, or any combination thereof for which prescribed methods of testing are established. The tests shall be in accordance with the methods of either the Association of Official Seed Analysts (AOSA) or the International Seed Testing Association (ISTA) as requested by the applicant.

### **§ 75.18 Sampling.**

Sampling, when requested by the applicant, shall be in accordance with the methods of either the Association of Official Seed Analysts (AOSA) or the International Seed Testing Association (ISTA), depending upon the test method requested by the applicant.

### **§ 75.19 Seed lot inspection.**

A lot inspection shall be made by obtaining a representative sample from a specified quantity of seed identified with a distinguishing mark or number to appear on all containers in the lot, and performing such test(s) as may be requested by the applicant. The identification mark or number must be approved by the inspector and will appear on the certificate to be issued.

### **§ 75.20 Submitted sample inspection.**

A sample inspection shall be made by testing a sample of seed submitted by an applicant for inspection.

### **§ 75.21 Grain sample inspection.**

A sample inspection shall be performed by examining official grain samples received from FGIS to identify